

EXHIBIT 3

031006dm jp

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CORPORAL TRINIDAD NAVARRO,)	
)	
Plaintiff,)	
)	
v.)	Civil Action
)	Number 05-565 (GMS)
CHRISTOPHER A. COONS,)	
individually and in his)	JURY TRIAL DEMANDED
official capacity; GUY H.)	
SAPP, individually and in)	
his official capacity; and)	
NEW CASTLE COUNTY, a)	
municipal corporation,)	
)	
Defendants.)	

Deposition of DAVID McALLISTER, taken pursuant to notice at the law offices of Margolis Edelstein, 1509 Gilpin Avenue, Wilmington, Delaware, beginning at 3:43 p.m., on Friday, March 10, 2006, before Julie H. Parrack, Registered Merit Reporter, Certified Realtime Reporter and Notary Public.

APPEARANCES:

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Wilmington, Delaware 19806
On behalf of Plaintiff

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David McAllister

2

1 APPEARANCES CONT'D:

2 MICHELE D. ALLEN, ESQUIRE
JUDITH A. HIDLICK, ESQUIRE
Page 1

031006dm.jp
NEW CASTLE COUNTY LAW DEPARTMENT
87 Reads Way
New Castle, Delaware 19707
On behalf of Defendant New Castle County

ALSO PRESENT: TRINIDAD NAVARRO

- - - - -

DAVID MCALLISTER,
the deponent herein, having first been duly
sworn on oath, was examined and testified as
follows:

BY MR. MARTIN:

Q. Afternoon, sir. My name is Jeff Martin. I am
the attorney for Trinidad Navarro in a claim filed
against Christopher Coons, Guy Sapp and New Castle
County.

First, let me ask how I may refer to you
during the course of this deposition?

A. David is fine.

Q. All right, Colonel.

A. That works also.

Q. Let me first get your -- well, let me ask you.
Have you been through the deposition process before?

A. I have.

David McAllister

3

Q. Okay. If you need to take a break at any time,
please just let us know and we won't even ask, okay?

A. Okay.

Q. All right. Let me have your current address,
please. Excuse me a second.

MR. MARTIN: Can I ask that, Michele?

MS. ALLEN: You want to give your current

031006dm jp

18 college when I was at the University of Delaware, and
19 then when I graduated, I left the bank, I did a little
20 tree work on the side while I was trying to get on the
21 police force, and then went back to the bank briefly
22 because it didn't look like I was going to get on the
23 police force, and then things changed.

24 Q. All right. So how long did you spend with

David McAllister

6

1 MBNA?

2 A. Oh, total time, a couple of years. I mean part
3 time in some of that capacity.

4 Q. All right. When did you receive your degree
5 from University of Delaware?

6 A. 1991. I have to think about that. 1991.

7 Q. And what did you major in?

8 A. I had a degree in history.

9 Q. Do you have any education beyond University of
10 Delaware bachelor's degree?

11 A. Yes. I have a master's degree from Wilmington
12 College in, a master's in management, a concentration
13 in human resources.

14 Q. And when did you receive that?

15 A. 2000 and -- 2002, I believe.

16 Q. All right. You began with the New Castle
17 County Police Department in what year?

18 A. 1992, January 6, 1992.

19 Q. And before you were promoted to chief, what was
20 your rank?

21 A. Lieutenant.

22 Q. Was it customary for a lieutenant to be

031006dm jp

23 promoted to chief?

24 A. They had just changed the law to allow

David McAllister

7

1 lieutenants to compete.

2 Q. By whom were you promoted to the position of
3 police chief?

4 A. Tom Gordon.

5 Q. And at that time he was county executive?

6 A. That's correct.

7 Q. When was it that you were appointed police
8 chief?

9 A. July of '03.

10 Q. And how long did you continue to serve in that
11 capacity?

12 A. Till October 18th of '05.

13 Q. And what happened at that point?

14 A. I resigned.

15 Q. Have you had an opportunity to review the
16 allegations in the complaint of Navarro vs. Coons?

17 A. Not in any great detail. I've reviewed them on
18 the phone with County.

19 Q. When you say "county," you're talking about the
20 County Law Department?

21 A. Yes.

22 Q. Did you do anything else in preparation for
23 your deposition here today?

24 A. I did not.

David McAllister

8

1 Q. When is the first time you met Chris Coons?

031006dm jp

2 A. The first time that I had had a conversation
3 with Chris Coons, I mean I had seen him at some County
4 Council meetings, never really talked with him. The
5 first time I had any conversation of any substance was
6 shortly after I got promoted to chief. I met with all
7 the council members.

8 Q. Do you recall the nature of your conversation
9 with him?

10 A. It was a sort of a general welcome aboard
11 conversation. It was, you know, what are my thoughts,
12 plans for the department, very general in nature.

13 Q. Did you just have that with Mr. Coons, or was
14 that with other councilmen as well?

15 A. That was with every council member I scheduled
16 that.

17 Q. How would you describe your relationship with
18 Mr. Coons from the time you were promoted to chief
19 until the time Mr. Coons was elected county executive?

20 A. I thought we had a -- I mean we had some
21 disagreements on some issues, but I thought we had a
22 professional relationship. I would not call it overly
23 friendly, but a professional relationship.

24 Q. Do you recall the nature of the disagreements

David McAllister

9

1 that you had?

2 A. We had disagreements concerning a promotion to
3 lieutenant colonel and major. I felt that he was
4 getting, getting a little bit inappropriate in his
5 questioning concerning who I was going to promote. He
6 made some statements concerning a particular captain,

031006dm jp

7 Captain Elmer Setting -- excuse me, was at the time
8 Lieutenant Elmer Setting, that council would be very
9 disappointed if I were to promote him and it would set
10 sort of a bad precedent. So we had sort of a
11 disagreement over that. We seemed to work through
12 that, I thought.

13 Q. Let me try to get a time reference for that,
14 please.

15 A. That was roughly the fall after I had been
16 promoted to colonel. We created a position of
17 lieutenant colonel, and it was sometime in the October
18 range, I mean that's --

19 Q. This is '03?

20 A. '03, yes, sir.

21 Q. Did Mr. Coons give you any idea as to why he
22 disapproved of Elmer Setting being appointed to, was
23 it lieutenant colonel position?

24 A. Lieutenant colonel or major. I had both of the

David McAllister

10

1 positions open. He indicated that Elmer had a
2 reputation as being very close with Sherry Freebery at
3 the time. You know, just said he had, you know, a bad
4 reputation and that that, you know, that promoting
5 him, you know, I was I guess going to adopt that bad
6 reputation. We exchanged some letters over that.

7 But as I said, I thought we sort of worked
8 through that issue.

9 Q. Was Setting actually promoted?

10 A. He was not. Scott McLaren was promoted to
11 lieutenant colonel, and major -- or then Captain

031006dm jp

12 Snyder was promoted to major. Later on I promoted
13 Lieutenant Setting to Captain Setting.

14 Q. Did the disagreement that Mr. Coons had with
15 regard to then Lieutenant Setting have anything to do
16 with him not being promoted at that time?

17 A. I would say that it did. I mean I thought
18 Elmer was a good candidate, but, you know, when you
19 make promotions you have to weigh all the factors.
20 And I did not want to start off my tenure with a bad,
21 with a bad council, you know. I mean obviously we
22 were trying for a new building, we were trying for
23 additional cops. I didn't need that kind of
24 resistance.

David McAllister

11

1 Q. Were there any other city council people who
2 were --

3 A. County Council.

4 Q. I'm sorry, County Council, thank you,
5 expressing any desire, concern about potential
6 promotions?

7 A. No.

8 Q. It was just Mr. Coons?

9 A. Yes.

10 Q. Did you find that unusual at the time?

11 A. I did, and I wrote him a letter stating so.

12 Q. Did you address his concern about Setting?

13 A. You're going to have to -- I'm not sure what
14 you mean by that. I wrote him a letter stating that I
15 really didn't think it was appropriate to really get
16 into the nitty-gritty of promotions from an elected

031006dm jp

17 official.

18 Q. Okay.

19 A. I don't know if that answers your question or
20 not.

21 Q. Well, it does. And did he respond to that in
22 any fashion?

23 A. He did. He wrote me a letter back saying
24 essentially that I was -- I'm going to paraphrase now.

David McAllister

12

1 I may still have the letters, quite frankly, but I'm
2 moving and everything is packed up. But something to
3 the effect that I was sort of childish. And I wrote
4 him a letter back saying, you know, again we're just
5 going to have to agree to disagree.

6 His concerns about Captain Setting, you
7 know, you know, sort of rumors of just wild, just wild
8 rumors that were unfounded.

9 Q. Such as?

10 A. Oh, he participated in a murder in Las Vegas,
11 you know, he owns a great big mansion and can't pay
12 for it. You know, and I knew that these rumors had
13 caused then Lieutenant Setting already to some -- you
14 know, the IRS showed up at his house and investigated
15 him. So I knew that those complaints were unfounded.

16 Q. In light of what you've testified to, you felt
17 that you were able to resolve your disagreements with
18 Mr. Coons?

19 A. I thought we agreed to disagree, you know. I
20 mean, and that's certainly within a professional
21 setting, that happens. We don't all get, always get

031006dm jp

22 along.

23 Q. Okay. What was the next time you had any
24 dealings with Mr. Coons?

David McAllister

13

1 A. Over, you know, I mean he was council
2 president, so we did a number of things, you know, the
3 building. And so I'm not sure I can answer your
4 question. I saw him on, you know, a semi-regular
5 basis, any council meeting.

6 Q. Do you have any recollection of any interaction
7 that you had with him that stands out from the others
8 in terms of being particularly good or particularly
9 bad?

10 A. No, I mean about the same relationship I had
11 with most council people, relatively friendly. I
12 can't think of anything.

13 Q. All right. So that didn't really change until
14 the time of his -- I'm taking you up to the time of
15 his election, correct?

16 A. Correct.

17 Q. All right. Now, let's go from his election
18 forward. Can you tell us?

19 A. Shortly after his election, of course I called
20 to congratulate him. We set up a meeting, we met at,
21 we met at -- I'm trying to think of the name of the
22 restaurant. It's in the City of Wilmington. We had
23 breakfast, like a cup of coffee. We talked, looked
24 like things were going to get started on the right

David McAllister

14

031006dm jp

1 foot. I mean, that was the next interaction. And
2 then after that, I never spoke to him again directly.

3 Q. After that meeting?

4 A. That's correct.

5 Q. Following his election?

6 A. That's correct.

7 Q. And was this meeting before --

8 A. Before he had taken --

9 Q. -- before the time he had been sworn in?

10 A. Yeah, before the time he had been sworn in.

11 Q. Okay, so that was the last time you had ever
12 spoken with him at all?

13 A. I saw him at a couple of public events where he
14 said hello to me, but I had never had a conversation
15 of substance with him again.

16 Q. Other than not having spoken following his
17 election, or following his swearing in, how would you
18 describe your relationship with Mr. Coons?

19 A. Well, I can only take it as a relationship with
20 his administration, because I didn't have a
21 relationship with Mr. Coons. But his administration
22 would be tense. Clearly it was very obvious to me
23 within the first sort of minute and a half of them
24 arriving that I wasn't going to have a particularly

David McAllister

15

1 good relationship. It was very tense, very strained.

2 Q. Well, give me some idea, please, why you
3 characterized it as very tense or strained.

4 A. You know, a series of e-mails, up to 16 to 20 a

031006dm jp

5 day, some of them very accusatory in nature of, you
6 know, "why do you do this? What is this?" You know,
7 almost to the point of, I mean I kind of got the sense
8 of -- you could just, the tone of the e-mails, mostly,
9 that I actually tried to get a meeting, I requested a
10 meeting with the county executive to try to resolve
11 some of these issues.

12 Instead, I got a meeting with Rich
13 Przywara, and at that point I was told that
14 essentially I wasn't there on move-in day, I didn't
15 help them get furniture back. And I said, "I don't
16 know what you're talking about." I mean I didn't
17 know, "You didn't have furniture." I mean I wasn't
18 sort of over at the Government Center. I didn't
19 involve myself in that.

20 And he said, you know, essentially you
21 know, if there's a relationship issue, it's more my
22 issue, and, you know, but he would pass on my concerns
23 to the county executive, and I never heard anything
24 else.

David McAllister

16

1 Q. So you had a face-to-face meeting with Rich
2 Przywara?

3 A. That's correct.

4 Q. And was that over at the Government Center?

5 A. It was actually over at the City/County
6 Building.

7 Q. And approximately when was that?

8 A. I want to say it was within, within a few
9 months of him taking office. I mean it really

031006dm jp

9 Q. When you say you, is that something out of your
10 pocket?

11 A. That's correct.

12 Q. So you remained within the merit system during
13 your employment with New Castle County?

14 A. That's correct.

15 Q. And as to the appointment of Guy Sapp as
16 director of public safety, I understand that you did
17 not have any input as to his selection; is that
18 correct?

19 A. That's correct.

20 Q. Did you have any input as to this notion of
21 revival or re-creation of this position?

22 A. I think at one point I was asked, and I think I
23 prepared something to the effect as to why it really
24 wasn't necessary.

David McAllister

23

1 Q. You think you put something in writing about
2 that?

3 A. I believe I did. It was a while ago, so...

4 Q. Now you've talked about e-mails that you're
5 getting and putting something in writing. Was that in
6 the form of an e-mail?

7 A. I think I wrote a memo on that one.

8 Q. All right. Where would that memo be? would
9 that be on your hard drive?

10 A. My secretary at the time, Betty, would always
11 type my memos, so it would probably be on -- she would
12 either have a hard copy of it or, or it would be on
13 her hard drive. I would dictate, I wouldn't type.

031006dm jp

14 I'm a hunt-and-pecker. It's really difficult, it
15 would take me forever to type something.

16 Q. Let's talk about promotions within the New
17 Castle County Police Department.

18 A. Okay.

19 Q. And let me ask you, first of all, what your
20 understanding was as to your authority as chief of
21 police to promote police officers to positions of
22 let's say sergeant and lieutenant?

23 A. It's my role to promote them. I mean there's a
24 testing process. There's a list. You're provided the

David McAllister

24

1 top five names for one position, and you can promote
2 and choose out of that top five names.

3 Q. When Mr. Sapp came aboard, did that change
4 that, your authority or your procedures with regard to
5 promotion?

6 A. Yes. What happened was prior to Mr. Sapp
7 coming aboard, I had open sergeants' positions and I
8 was trying to move to promote them. I had probably
9 several conversations with Mr. Singleton, didn't
10 receive any answers concerning promoting. His sort of
11 final answer was, "Well, just wait till Mr. Sapp comes
12 on board." So, you know, I approached the issue with
13 Mr. Sapp. We had several conversations. He agreed,
14 you know, that we're going to promote -- you know, he
15 agreed that we were going to promote. Then later on,
16 after returning from the Government Center, he told
17 me, "Well, you know, we need to really look at the
18 money of this."

031006dm jp

19 So I looked at the money, showed him that,
20 you know, the difference between a patrol officer and
21 a sergeant is minimal in nature. He said, "okay, I'll
22 get back to you." And then he came back and said,
23 "No, you know, we're going to promote after the new
24 budget year," which is July 1. I said, "well, the

David McAllister

25

1 problem is, you know, we have an agreement with the
2 FOP that says we will fill open positions." He said,
3 "okay, well let's meet with them." So we met with
4 them.

5 And I had told him during the meetings
6 that I disagree. I think, you know, frontline
7 supervision is the most, it's probably the most
8 critical position we have in the police department
9 with a very, very young work force.

10 We had a meeting with the FOP and the sort
11 of involved parties, the eligible parties, and he said
12 that after July 1 we would promote. I think it was
13 after July 1 or after the budget.

14 Q. How many?

15 A. Three. At which point, you know, it was
16 getting to the point to do the promotions, and then he
17 came back and said, "No, we need more patrol officers
18 than we need sergeants." And not going to let me
19 promote. We discussed it further. He came back from
20 a management meeting, said, "okay, we're going to
21 allow to promote one."

22 At which point something that had never
23 occurred before, I had to go over to the Government

031006dm jp

24 Center with the selections, the top five, and justify

David McAllister

26

1 why I was choosing a particular person, including, you
2 know, kind of going through their IA files and saying
3 what sort of discipline they had. And I had to
4 justify it before Mr. Sapp and Mr. Singleton, and that
5 has never occurred before.

6 During my conversations with Mr. Sapp, and
7 this is the quote and I spoke to the county about, you
8 know, that I told him that we had three positions, and
9 I told him who I wanted to promote, that I wanted to
10 promote Mr. Treadwell, John Treadwell, Trini Navarro,
11 and that there was -- the third position there were
12 two candidates, one was a Trish Davies and one was
13 Wendi Feeser. I think both could have developed into
14 good sergeants, but I was leaning towards Wendi Feeser
15 because Trish Davies had some negative reports from
16 her supervisors concerning her working as a team,
17 teamwork ability. She was a bit of a loner. Wendi
18 Feeser had a higher education, was known as a team
19 player. So I was leaning towards Wendi Feeser.

20 And I said that that would give us a
21 black, a Hispanic and a female, which is an area that
22 the county was weak in in terms of minority
23 promotions. That's something I had been trying to
24 change since I've taken office, and something I recall

David McAllister

27

1 at some time having a conversation with the county

031006dm jp

2 executive many, many years ago when I first took over
3 about, you know, minority promotions and diversity in
4 promotions.

5 Q. You're talking about, when you said county
6 executive, you're talking about Tom Gordon at that
7 point?

8 A. I'm sorry, then it would have been Council
9 President Coons. You know, I knew he was interested
10 in diversity. I think we had had a conversation about
11 the Diversity Commission.

12 So, you know, my thought was we could
13 really -- when I took over as chief of police, we had
14 one Hispanic sergeant, we had one African-American
15 captain, one, I think one African-American lieutenant,
16 and maybe one African-American sergeant. We had one
17 female captain and two female sergeant, and that's it.
18 And so we were trying to, you know, obviously better
19 that situation and be more reflective of the
20 community.

21 Q. And this was with a police force of 350 plus?

22 A. That's correct. It was not particularly good
23 numbers.

24 Q. Now, when you talked about the three positions,

David McAllister

28

1 let me make sure I understand where this fell into the
2 context. Was this when you went over to the
3 Government Center to talk with Sapp and Singleton?

4 A. No, this was, the three positions, there were
5 conversations in Mr. Sapp's office back when we
6 started talking, first talking about promotions. And

031006dm jp

7 he agreed, let's do it. Then he came back and said
8 no, let's not do it, it's because of money.

9 I pulled the sort of the fiscal aspect of
10 it, had William Dill come down and talk with him,
11 Butch Dill, showed him that the money didn't really,
12 it didn't, that didn't make sense, it's really a
13 nominal bit of money. But he sort of held with that,
14 and then later on it became now we need more patrol
15 officers than we need the sergeants.

16 But all the while I kept talking about the
17 ones that I wanted to promote. So the conversation
18 concerning that probably took place a couple of
19 different times. When we only had one sergeant
20 position, when they only released one, was when John
21 Treadwell was promoted.

22 Q. Why was that?

23 A. Because at that point he was, John was, at that
24 point the top of the list, but also a good candidate.

David McAllister

29

1 And compared to the other four, the other four at that
2 particular time in that top five really weren't viable
3 candidates, in my assessment. One had received major
4 discipline for evidence violations. One was, he had
5 worked for me before. He had been facing discipline
6 for failure to complete his reports. He had had a bit
7 of a nervous breakdown during the accreditation
8 process. I don't want to qualify as a nervous
9 breakdown, because I'm not a psychologist. He had --
10 he was known as a person who could do one thing and
11 one thing only at a time. And I think promoting him

031006dm jp
12 to sergeant would be -- well, he just, he didn't fit
13 what a sergeant should be at all.

14 One had, was facing being removed out of
15 the detectives for, again, some misuse with some
16 attendance and not being a team player.

17 Q. All right, let me go back. You said when there
18 was one position that you were able to fill, that was
19 John Treadwell, correct?

20 A. That's correct, yes.

21 Q. All right. And you said there were four others
22 who were on that list at that point, correct?

23 A. Correct.

24 Q. Can you name the four others that were on that

David McAllister

30

1 list?

2 A. One was L. Rob Joseph. One was Rich Dunning.
3 I think one was Rich Trala, that was the one who was
4 facing coming out of -- excuse me, Joe Trala. Joe
5 Trala. And the other one escapes my thought at this
6 very moment.

7 Q. All right. I'm going to have to go back and
8 get some -- you've said a lot of things and I want to
9 go back and make sure we understand what the sequence
10 is.

11 You said, I believe, that you had a
12 conversation with Mr. Sapp on a couple of occasions
13 that when there were three positions open you told him
14 who the three were going to be, or at least who two
15 were going to be, and the choice between the third.

16 A. Correct.

031006dm jp
17 Q. Is that fair to say?

18 A. That's fair to say.

19 Q. And --

20 A. I essentially told him who the three were going
21 to be. There was -- the third between Wendi Feeser
22 and Trish Davies, there was some, some debate among
23 the staff about, about that. I mean so that was not a
24 foregone conclusion, but I think we pretty much had

David McAllister

31

1 agreed that Wendi Feeser was going to be the choice.

2 Q. All right. And you said you had this chat with
3 Sapp on a couple of occasions.

4 A. Correct.

5 Q. Did you mention by name the people that you
6 were --

7 A. Yes.

8 Q. Okay. And so you said Treadwell, Navarro, and
9 then you had Davies or Feeser, correct?

10 A. Yeah, with Feeser being my choice.

11 Q. Okay. Now, I'm a little confused about, as I
12 understand it --

13 A. I think we probably all are.

14 Q. There were three positions that he had agreed
15 to initially. Correct?

16 A. There were three budgeted positions.

17 Q. Right. And when you say budgeted, they were
18 budgeted by County Council?

19 A. That's correct.

20 Q. Okay. And did that change at all at any time
21 during July and August of '05?

031006dm jp
22 A. No. In fact, two of them were just added in
23 the newly adopted budget.

24 Q. Okay.

David McAllister

32

1 A. So --

2 Q. And that was the budget beginning July 1st,
3 2005?

4 A. Correct.

5 Q. Okay. But as I understand it, it was the
6 decision of Mr. Sapp and maybe someone else that they
7 not be filled, correct?

8 A. Yes. Yes, initially he said, "Let's fill
9 them." Then he went over to the Government Center, he
10 came back, it's a money issue. We sort of disproved
11 that. He said, "I'll get back to you. Let's -- we're
12 still going to hold off till July 1 for the money."
13 He met with folks.

14 I was, I was preparing to go forward with
15 those promotions, you know, July 1 or, I think he
16 allowed us to do one and then the two were going to
17 wait. And then it was kind of -- I started getting
18 the sense that they weren't going to move forward with
19 the two. I had another conversation with him. He
20 said, "No, you know, we're going to move forward."
21 And then it changed.

22 Q. All right. And then as I understand what
23 happened was one of the three budgeted positions was
24 filled --

David McAllister

33

031006dm jp

1 A. Correct.

2 Q. -- for sergeant, correct, with a promotion?

3 A. Yes.

4 Q. And that was Sergeant Treadwell --

5 A. Correct.

6 Q. -- who was promoted. And I understand, and I'm
7 confused about this, you said that there were four
8 others who were I guess eligible to be promoted but
9 were not viable candidates?

10 A. Yes. And they're not viable for a lot of
11 reasons, just, you know, the sergeant's process
12 doesn't take into account anything other than what you
13 score on the test in the 20 minutes you're in an oral
14 board. Later on you have to assess overall whether a
15 candidate's going to make a good sergeant or whether
16 he's going to be a good fit at that time.

17 You know, my process for promoting was to
18 discuss it with staff, with the lieutenant colonel,
19 and to look what our needs were at the time. For
20 example, when I first became sergeant, I felt we had
21 the need for a very strong operational sergeants with
22 some seniority, with some -- and that's what I looked
23 for. Then, you know, then as --

24 Q. When was that?

David McAllister

34

1 A. In July of '03. I made a series of promotions
2 either July or August. So, you know, you tried to
3 look for what your needs are at that particular time.

4 Q. All right. What I don't understand is when you
5 said Treadwell was promoted, you said there were four

031006dm jp

6 other viable candidates who were not considered
7 viable.

8 A. Correct.

9 Q. But, you know, you had previously indicated
10 that the three positions were going to go to
11 Treadwell, Navarro, and either Davies or Feeser.

12 A. Because you have your choice of five for one.
13 Once you promote that number, six moves up. Then No.
14 7 moves up, as you continue to have positions. So
15 when I had three positions, I had a choice -- I would
16 have had a choice of five, six, seven, the top seven,
17 not just the top five. That would have brought in the
18 additional candidates, which would have been Navarro
19 and Feeser, or Navarro and Davies, I can't remember.

20 Q. I see, okay. How did you respond to Mr. Sapp's
21 statement that you could not fill those two budgeted
22 positions?

23 A. Which time? I mean there was kind of a, there
24 was sort of a -- the first time when he said it was

David McAllister

35

1 money, I, you know, we had a, I would say, we had a, I
2 would say healthy debate about it. It was clear he
3 didn't understand the budget of the New Castle County
4 Police, so I sort of sat with him and I brought Butch
5 Dill down and explained how it worked. It seemed to
6 me that he was on board to promote, and he said -- you
7 know, you know, it was, it was a strange situation.
8 He would sort of go over to the Government Center,
9 then he would come back and his sort of stance would
10 have changed, is the only thing I can say. I don't

031006dm jp

11 know what happened over there.

12 Q. All right. I want to just try to get some
13 dates on these occurrences that you've testified to.
14 And I'm going to show you a couple of documents and
15 ask you some date-specific questions.

16 A. I'll do my best.

17 Q. All right. Let's start with, we'll mark this
18 as McAllister 1.

19 (McAllister Exhibits No. 1 through 4 were
20 marked for identification.)

21 Q. Let's look first at Exhibit 1, which is a memo
22 from you to all police personnel dated May 10, 2005.

23 A. Yes.

24 Q. And in the second paragraph it says, "Once a

David McAllister

36

1 vacancy for sergeant has been created, every
2 reasonable effort shall be made to fill said vacancy
3 within 60 days from the certified promotion list." Is
4 that -- I mean that's what you said.

5 A. Yes. This was a restating of an agreement that
6 had been reached after a grievance with then I think
7 colonel Cunningham. So we were just restating the
8 agreement.

9 Q. Okay. All right, on No. 2, this is an FOP
10 document, and I think you had referred to in your
11 testimony your conversation with the FOP about filling
12 slots.

13 A. Yes. As I read this, I would tell you that
14 they -- "We were told by the colonel there's one
15 sergeant's position open." I think that might be a

031006dm jp

16 bit -- I didn't do that much speaking at that meeting.
17 So I think they're attributing conversations or words
18 to me that probably came out of the director of public
19 safety's mouth, not mine.

20 Q. Well, and the date is May 20.

21 A. Right.

22 Q. Does that date make any difference in terms of
23 what the possibilities were at that point?

24 A. I'm not sure I really understand what you're

David McAllister

37

1 asking me.

2 Q. Well --

3 A. This was following the meeting, and this was
4 the FOP's response, I believe, back to me saying fill
5 the vacancies.

6 Q. All right. And if you look on the second page
7 of that document, that last full paragraph, it says
8 there, "If two additional sergeants' positions are
9 approved for the next fiscal year, we ask that those
10 positions be filled, without a chief's interview."

11 A. Oh, okay. I see what you're asking. The three
12 spots were -- and it's been the past practice that you
13 could overpromote positions and then make it right in
14 the following fiscal year. In other words, you know,
15 you convert a patrol officer to a sergeant. You pay
16 for that with salary savings that the department
17 consistently has, then you make it right in the next
18 fiscal year.

19 We had done that. We had promoted up to
20 38 sergeants. Those positions were vacant again. We
Page 31

031006dm jp

21 promoted up to 38, and then like anything else, you
22 lose back down. We had made it right in the current
23 budget. In other words, that budget, and I don't know
24 when the county budget was approved, but I believe it

David McAllister

38

1 was approved by May 20th, it had already been. So
2 what they were saying was, the county's position of
3 waiting till July 1 was those two positions became,
4 quote, hard positions.

5 My position was we promoted already up to
6 38, they were now vacated, July 1 they became hard
7 positions, we could still fill them.

8 I don't know if that's clear.

9 Q. Okay.

10 A. It's a little bit confusing. The chief's
11 interview, there was some discussion about whether we
12 should have a chief's interview for, it's not
13 required, it wasn't posted with the exam. The FOP's
14 position, and rightly so, was that if people had been
15 promoted off that list without a chief's interview,
16 there should not be a chief's interview now.

17 Q. Okay.

18 A. The county's position to me was they wanted to
19 have a couple of people sit in the office while I
20 interviewed people so, quote, nobody would hand me a
21 stack of money to be promoted. That was a direct
22 quote from the director of public safety.

23 Q. Okay. Now, let's look at Exhibit 3. And this
24 is a memo that you wrote --

David McAllister
Page 32

39

031006dm jp

4 A. Yeah, that's correct. Two days later.

5 Q. This is a response, was this a direct response
6 to your memo of June 27?

7 A. It was.

8 Q. Okay. And that was from Guy Sapp?

9 A. That's correct.

10 Q. Saying that he will not authorize the
11 requisitions for two of the sergeant positions
12 requested in the memorandum.

13 A. That's correct.

14 Q. Okay. And what was your understanding as to
15 why he took that position at that time?

16 A. Well, now it had become we need more patrol
17 officers.

18 Q. All right. And what was your reaction, if any,
19 to his statement that you need new patrol officers?

20 A. Well, a number of thoughts went through my
21 head. Number one, I disagreed. I think that we were
22 taxing our sergeants on the patrol to handle too large
23 of an area. So it was always our operational plan to
24 split what is known as the eastern side or central

David McAllister

41

1 into two different sectors so that a sergeant would
2 not have to travel basically from the Maryland line to
3 New Castle.

4 we had plenty of patrol officers out
5 there, in my assessment, and in any study which I did
6 routinely of committed time versus uncommitted time of
7 patrol officers, you'd find that routinely officers
8 had four hours of uncommitted time in a 10-hour shift.

031006dm jp

9 That would not be the case if, in fact, they were so
10 busy that they, that they couldn't handle their job.
11 And the four hours on average, four hours of a 10-hour
12 shift they were uncommitted.

13 So those are some of the things that I
14 disagreed with him. I mean I felt that we had a young
15 work force with -- and many years ago we went to a new
16 patrol shift. We went from four platoons to five
17 platoons. The department was authorized 30 sergeants.
18 It's been authorized 30 sergeants since I think its
19 creation, but I'm not sure. I mean it's been so long
20 nobody can remember how long.

21 With five patrol shifts, the bulk, it
22 almost left no sergeants to do special units,
23 detectives, mounted patrol, traffic. There were not
24 enough supervisors to go around. So we really did

David McAllister

42

1 need more sergeants. We'd had experiments where we
2 tried to run units without supervisors, like the
3 mounted unit. We tried to combine the drug unit and
4 the property squad into one sergeant. Well, that
5 doesn't work at all. You can't -- you know, it's like
6 having two, essentially two different tasks.

7 So we were, you know, we needed more
8 sergeants.

9 Q. Did you have this discussion with Mr. Sapp?

10 A. I did.

11 Q. Where and when did you have this discussion?

12 A. We had had the discussion, you know, I can't
13 say that it was necessarily -- I believe we started

031006dm jp

14 having this discussion about staffing was sort of what
15 prompted me to write that memo, because I was getting
16 the feeling that now --

17 Q. Which memo, the D 3?

18 A. Please release the --

19 Q. Or McAllister 3?

20 A. Please release the reqs, because I was getting
21 a sense now all of a sudden this new thing had cropped
22 up, you know, well we're so busy, you know, you need
23 more patrol officers. But I also found it interesting
24 because we had asked for more patrol officers in the

David McAllister

43

1 budget and they were cut, and we had just approved the
2 budget that we knew we couldn't hire. You know, if we
3 need more patrol officers, we should have put in the
4 police academy. But they weren't allowing that
5 either.

6 Q. Did you make any observations as to what was
7 done with the various patrol officers that were out
8 there? Did they, in other words, did they continue to
9 work in a patrol function, or were some of them
10 changed to other duties?

11 A. We were making acting sergeants. So, you know,
12 the vacancies were being filled in an acting capacity.
13 So it was sort of like robbing Peter to pay Paul. It
14 was kind of the same thing. You either make him a
15 sergeant or you don't make him a sergeant. They're
16 not a sergeant, they're still an acting sergeant. So
17 I wasn't sure why.

18 Q. What was the budget impact, if you know, in

031006dm jp

19 terms of making acting sergeants versus promoting to,
20 a corporal or patrolman to a sergeant position?

21 A. It's the same, it's 5 percent over.

22 Q. Same thing?

23 A. Yeah, 5 percent. You know, if you're an acting
24 you receive 5 percent.

David McAllister

44

1 Q. All right, so it would not have any budgetary
2 impact?

3 A. No.

4 Q. Did you make any observations as to any of the
5 patrol officers being changed out of a patrol function
6 into, you know, special unit or some other capacity?

7 A. I know that took place, but at that point I had
8 been placed on leave.

9 Q. Okay.

10 A. I know they formed like a jump-out type squad.
11 We were also sending officers into the City of
12 Wilmington. That was during the summer where we, you
13 know, where we needed more patrol officers, we were
14 sending them into the City of Wilmington.

15 Q. When were you placed on leave?

16 A. Near the end of July, middle to end of July.
17 And after that I think they made some transfers.

18 Q. What was the reason you were given as to why
19 you were put on leave?

20 A. They were investigating the extra duty account.

21 Q. Were there any other officers placed on
22 leave --

23 A. No.

24 Q. -- for that --

David McAllister

45

1 A. No.

2 Q. -- allegation? Did you have any understanding
3 why you were placed on leave for that allegation?

4 A. The reason I was given was that I commanded IA,
5 professional standards, therefore, I needed to be
6 removed from the chain of command.

7 Q. Did IA have its own commander?

8 A. There was a lieutenant in charge of
9 professional standards, but they did report directly
10 to me.

11 Q. And that lieutenant was not put on leave?

12 A. No.

13 Q. Let me go back and we'll talk a little bit more
14 about some promotional issues. I just want to be able
15 to clear up our notes and see if I'm accurate with
16 some of these statements.

17 Do you recall whether at the end of
18 December, or December 12, 2004 that you made various
19 promotions to sergeant?

20 A. Yes.

21 Q. Did you promote the following: Jaime Dolan?

22 A. Yes.

23 Q. Michael Donovan?

24 A. Yes.

David McAllister

46

1 Q. Domenick Gregory?

2 A. Yes.

031006dm jp

3 Q. Joseph Meriggi?

4 A. Yes.

5 Q. Wayne Pennington?

6 A. Yes.

7 Q. Robert Schlecker?

8 A. Yes.

9 Q. Were they all promoted to sergeant positions?

10 A. Yes.

11 Q. And was there some overpromotion?

12 A. Yes, that's the two spots that later became, we
13 made right in the budget.

14 Q. Okay. Was that customary, that overpromotion
15 was done and it was rectified in the budget?

16 A. Yes. It was absolutely -- we've done it many,
17 many times. Both me as chief and the previous chief
18 did it many times.

19 Q. When you submitted your police budget in the
20 spring of 2005, did you request two additional
21 sergeant positions?

22 A. I did.

23 Q. And that request was eventually approved by
24 County Council; is that correct?

David McAllister

47

1 A. Correct.

2 Q. After the promotions to sergeant in December of
3 2004, I want to find out whether you had any vacant
4 positions for the sergeant position. Do you recall
5 whether you had any vacant positions?

6 A. Once I made those promotions we were full.

7 Q. Okay.

031006dm jp

8 A. Through attrition we came up with openings, as
9 is sort of normal.

10 Q. I want to make sure I understand the process in
11 terms of promotion in this case to sergeant. Do I
12 understand correctly that if you're on that list of
13 five, you can be promoted to sergeant?

14 A. Correct, one position, five names.

15 Q. Okay. And do you as chief have to select the
16 first person on that list?

17 A. No, sir.

18 Q. You can select any one of the five; is that
19 correct?

20 A. That's correct, yes.

21 Q. Okay.

22 A. That's not just for sergeant. That's for
23 every, essentially every position in the county.

24 Q. At the time you were placed on leave, sometime

David McAllister

48

1 in late July of 2005, what understanding, if any, did
2 you have as to the county executive's feelings about
3 you as chief of police?

4 A. What understanding -- of course I could only,
5 that would only be my opinion, if that's what you're
6 asking. I figured that he didn't wish me to be the
7 chief of police.

8 Q. Okay. I understand that a lot your dealings
9 with were with Mr. Singleton, as you acknowledge.

10 A. Yes.

11 Q. Was there any communication to you as to how
12 County Executive Coons felt about you?

Page 40

031006dm jp

23 about the upcoming article in Delaware Today magazine?

24 A. I think Trini knew it because I told him the

David McAllister

51

1 photographer would be coming and that a reporter would
2 be coming. But that was something that I arranged.

3 Q. How would you describe your relationship with
4 Trinidad Navarro?

5 A. We're professional friends. We went to the
6 academy together, sort of lost track of each other
7 through the early parts of our career, sort of came
8 back together working inside positions about roughly
9 the same time. Professional friends, we don't really
10 socialize together. Our kids don't play together. I
11 don't know that he's ever been over to my house for a
12 social gathering.

13 Q. Are you drinking buddies?

14 A. No.

15 Q. Did you have any influence in terms of Trini's,
16 Trini Navarro's application for sergeant?

17 A. No.

18 Q. Did you talk to anyone doing the oral board for
19 Trini Navarro?

20 A. No.

21 Q. Did you provide any answers to test questions,
22 promotional test questions to Mr. Navarro?

23 A. No. I never saw the written test. So no. And
24 I wouldn't have anyway.

David McAllister

52

031006dm jp

1 Q. Have there been any occasions in your
2 professional relationship with the director of public
3 safety, Guy Sapp, that he has not been honest with
4 you?

5 A. Yes.

6 Q. Can you describe them?

7 A. I don't think he was honest about the
8 investigation and the reasons that I was put on leave.

9 Q. All right, let me just stop you right there.
10 How was he not being honest with you with regard to
11 your reasons for being put on leave?

12 A. He came to my house and told me the next day
13 that, you know, you know, that this is going to be --
14 you know, "You're going to be back to work in a couple
15 of weeks, and this is no big deal. And I don't -- you
16 know, we're not trying to hurt you." You know, I
17 didn't, you know...

18 I actually, on a level, I like Mr. Sapp.
19 I thought him coming in was going to be a relief for
20 me, a pressure reliever, a, you know, a kind of a
21 buffer for the administration, so maybe our
22 relationship could get better. I don't -- didn't
23 really turn out that way.

24 Q. It didn't turn out that way?

David McAllister

53

1 A. No.

2 Q. And you think when he came and went to your
3 home, told you about the leave, you don't think he was
4 being -- that he honestly believed that you were going
5 to be back to work soon?

031006dm jp

- 6 A. I don't believe so.
- 7 Q. You don't believe that when he said they were
- 8 not trying to hurt you?
- 9 A. I don't believe that at all.
- 10 Q. Do you have any reason to believe that the
- 11 Coons administration was actively seeking reasons to
- 12 terminate your employment?
- 13 A. Yes.
- 14 Q. And what's your basis for saying that?
- 15 A. Well, I learned later they hired a private
- 16 investigator. I also learned later that Mr. Baylor,
- 17 Dave Baylor, who was a candidate or at least
- 18 approached about the public safety director's position
- 19 was, it was talked over with him about what they
- 20 wanted to do to me, which was to get rid of me, and
- 21 that was the primary reason he did not take the job.
- 22 Q. What kind of relationship did you have with
- 23 Dave Baylor?
- 24 A. Professional in nature. He was a major with

David McAllister

54

- 1 the State Police. I think we had a good working
- 2 relationship.
- 3 Q. And I take it this --
- 4 A. He was on the transition team also.
- 5 Q. Okay. When you say also, who else was on the
- 6 transition team?
- 7 A. Guy Sapp was on the transition team. There
- 8 were a couple, there was a number of them.
- 9 Q. And by this time, Dave Baylor had retired as a
- 10 major at Delaware State Police?

031006dm jp

11 A. That's correct.

12 Q. And he had a conversation with you at some
13 point telling you that --

14 A. No, that was relayed to me.

15 Q. Okay.

16 A. That was relayed to me. So I, you know, I
17 don't have any -- you know, you hear a number of
18 things through this type of situation.

19 Q. So you've not had a chance to speak directly to
20 Dave Baylor?

21 A. No, nor do I have any desire to.

22 Q. Why do you say that?

23 A. I would rather put the county behind me and
24 move on. I'm very happy in my new position, and God

David McAllister

55

1 works things out in mysterious ways.

2 MR. MARTIN: All right. I think we've
3 been going by my clock more than, well more than an
4 hour. Can we take a short break?

5 THE WITNESS: Fine with me.

6 MR. MARTIN: We're going to try to
7 conclude this evening.

8 (A brief recess was taken.)

9 BY MR. MARTIN:

10 Q. I have a few more areas. I'm going to try to
11 wrap this up.

12 You had mentioned a few minutes ago about
13 the transition team. Did the transition team do any
14 type of study or any type of report in terms of the
15 New Castle County Police Department?

031006dm jp
16 A. Yes, they did.
17 Q. And do you know who authored that report?
18 A. The total team, I guess.
19 Q. Okay. And this team included police, former
20 police officers Guy Sapp and Dave Baylor?
21 A. Um-hum.
22 Q. Yes?
23 A. Yes.
24 Q. Any other police officers on that?

David McAllister

56

1 A. Yes, Marge Ellwein was on the transition team,
2 the union president.
3 Q. All right. Did they release the findings,
4 their findings?
5 A. Yes.
6 Q. Was that in a written form?
7 A. Yes.
8 Q. Can you summarize their findings?
9 A. It was, it was all positive. Their
10 recommendations were written out, and then I had to
11 write a response to those. That would be on Betty's
12 computer also. But I think they recommended the, you
13 know, appointing a director of public safety. They
14 recommended developing some sort of, you know, if I
15 were to get hit by a bus, you know, who takes over,
16 which didn't make sense to me since that's pretty
17 clearly spelled out in the directives.
18 Q. You mean a successor?
19 A. Successor. And I avoid buses. So they, you
20 know, they recommended, the recommendations were

031006dm jp

21 pretty minor, I mean pretty minor.

22 Q. How did the New Castle County Police Department
23 stack up versus other county departments, if you had a
24 reason to review those?

David McAllister

57

1 A. Seemed, it seemed to stack up fine. I had a
2 chance to review Special Services, they seemed to have
3 a much longer report than we did. I mean, you know,
4 of course it's a big area. But seemed to stack up
5 okay. I mean I was -- there was no recommendations
6 that I didn't, you know, I mean I, that I was
7 particularly shocked by. I mean, they seemed almost
8 nonsensical, quite honestly.

9 Q. On another subject, did you have any problem
10 with making a decision to send officers to special
11 training?

12 A. I did, I did. Both the Southern Police
13 Institute and the FBI National Academy, there were,
14 there was discussion about my choices. In the case of
15 FBI National Academy, it was Bruce Pinkett. In the
16 case of the FBI -- or excuse me, the Southern Police
17 Institute was Wendy Hudson. In the case of Bruce
18 Pinkett I had to continually justify my decision, and
19 then later on I was told by Guy Sapp that he received
20 heat and people, quote, turned on him because he
21 couldn't stop my decision to send Bruce Pinkett to
22 school.

23 Q. Did he tell you from where this heat
24 originated?

David McAllister

58

031006dm jp

1 A. He did not.

2 Q. Did you have any understanding where it came
3 from?

4 A. I got the sense that it came from the
5 Government Center, but that would only be my read.

6 Q. And do you have any understanding as to why
7 Pinkett's visit to the FBI Academy would cause so much
8 concern?

9 A. Because it was my choice. Bruce Pinkett is a
10 highly decorated, outstanding officer, and he would be
11 the first African American that we had sent to the NA,
12 or any major school in quite some time. So...

13 Q. Did it give you any further insight as to who
14 was making the critical decisions for the New Castle
15 County Police Department?

16 A. Again, it would only be my speculation. But I
17 didn't get the sense that Mr. Sapp was making the
18 decisions, because he seemed frustrated by the
19 continual questioning about this, and he seemed
20 frustrated by the fact that he received heat for it.
21 As I said, I took him at his word. I felt that he was
22 an okay guy.

23 Q. And what about Wendy Hudson and the Southern
24 Police Institute?

David McAllister

59

1 A. Again, same type of thing, justify why, justify
2 how we posted the school, same type of thing as the,
3 as the National Academy. Later on there was another
4 spot available in the Southern Police Institute. I

031006dm jp

5 was trying to make a selection, and they indicated
6 they weren't going to approve any of these specialized
7 schools.

8 Q. What was the cost to the county to send
9 somebody to these type of schools?

10 A. Zero. We do all our training using grant
11 money.

12 Q. Did you have any understanding at that point as
13 to why they said, you know, we're not going to send
14 anybody?

15 A. No understanding.

16 Q. And how important was it to the New Castle
17 County Police Department that you sent your officers
18 to these elite schools?

19 A. I think it's very important. To be a
20 cutting-edge, top-of-the-line police department,
21 you've got to get your managers out, talking with
22 other, you know, A, being educated, you know, the
23 Southern Police Institute teaches a strategic
24 management that is second to none in the country. The

David McAllister

60

1 National Academy gives you contact lists. While it
2 doesn't do necessarily the strategic management part,
3 what it does come away with is a resource to pull on
4 at any time throughout the country.

5 Q. Now, on another topic, I think we may have
6 touched upon this earlier. Did you have any
7 understanding or impression that there was any type of
8 surveillance activity as to you or your family?

9 A. I had received -- prior to actually, prior to
Page 50

031006dm jp

10 actually knowing that this was going on, I had people
11 calling and telling me that it was going on. Later on
12 while I was off I was able to see someone around the
13 corner from my house watching my house, following me
14 to a shopping center. I received calls from various
15 friends indicating that somebody was coming and
16 talking to them. So that's how I sort of knew about
17 that.

18 Q. Can you give me a time frame as to when you saw
19 this particular individual?

20 A. August, September.

21 Q. This is while you were on leave?

22 A. Correct. I had gotten calls in June from
23 people saying that somebody was asking questions about
24 me. I sort of dismissed it.

David McAllister

61

1 Q. Did you have a chance to follow up and
2 determine who might have been watching you?

3 A. When, when I heard in June I asked the director
4 of public safety, and he indicated to me that nobody
5 had been hired. He indicated, excuse me, to my
6 attorney at the time, Claire DeMatteis, that nobody
7 had been hired. And then that was clarified through
8 the county attorney that in fact somebody had been
9 hired but that that person had completed their task,
10 whatever that task was.

11 Later on, I did confirm in August or
12 September that it was a company called Assured
13 Investigations that was --

14 Q. I'm sorry?

Page 51

031006dm jp

15 A. Assured Investigations. And the person's name
16 escapes me because I -- he left his name with someone.

17 Q. But did you learn then from the county attorney
18 that this was sanctioned or requested by the county --

19 A. At that point I didn't ask. In August or
20 September I didn't ask.

21 Q. Okay. Now, you hired a private attorney
22 because you had the threat of criminal charges?

23 A. Yes.

24 Q. Okay.

David McAllister

62

1 A. There was talk of that. There was, you know,
2 obviously my job, employment, that sort of thing.

3 Q. All right. And you acknowledge that the county
4 attorney had told you a little bit about the
5 surveillance. Do you recall him also telling you that
6 he was sorry for putting you through everything the
7 administration did to you?

8 A. Yes. We had that conversation in the hallway
9 of the Government Center.

10 Q. Well, rather than take my words, please, what
11 is your best recollection of that conversation?

12 A. My best recollection is that we were walking
13 down the hall and we went into the men's room. I'm
14 sorry, we were walking down the hall. And he said,
15 "I'm really sorry about all that this." Then on a
16 break from questioning, we were in the men's room, and
17 he said, "I'm really sorry for all this. This is,
18 this is not a pleasant part of the job," or something
19 to that effect. And then he said, "This really isn't
Page 52

031006dm jp

20 right," is what he said to me.

21 Q. What was your understanding, if anything, as to
22 what he meant, "This isn't right"?

23 A. I, you know, at that point, my understanding
24 was, you know, that obviously they did not wish me to

David McAllister

63

1 be colonel and, you know, I had to come to some
2 understandings on my own.

3 MR. MARTIN: Thank you. I have nothing
4 further.

5 BY MR. GODDESS:

6 Q. Mr. McAllister, I represent Chris Coons and Guy
7 Sapp in this case. I'm going to ask you some
8 questions as well.

9 A. Okay.

10 Q. First, you mentioned you are familiar with the
11 deposition process?

12 A. Yes.

13 Q. How many times has your deposition been taken?

14 A. I don't, I don't know. A couple of times, I
15 think.

16 Q. What sorts of cases?

17 A. Oh, I think, I think I was deposed for an
18 accident that I handled once, and maybe for a lawsuit.
19 I can't remember, just a couple of times. I'm not
20 overly familiar with it, if that helps you. Not
21 trying to be, either.

22 Q. As I understand the promotional process to
23 sergeant in the year 2004, it worked off of, or the
24 concept is to have a list of five names certified to

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64

1 the chief of police, and then the chief would pick one
2 of the five?

3 A. Yes.

4 Q. The list was ranked but the chief could indeed
5 pick number five?

6 A. That's correct.

7 Q. If he chose.

8 A. That's correct.

9 Q. In December of '04 you promoted what, six
10 individuals, Dolan, Donovan, Gregory, Meriggi,
11 Pennington and Schlecker?

12 A. Yeah, yes.

13 Q. How did there come to be six openings in
14 December of '04?

15 A. There were four that had come open and we
16 overpromoted two.

17 Q. Okay. Who is "we"?

18 A. Myself and, me, as chief of police. I
19 overpromoted two.

20 Q. How did there come to be four openings?

21 A. I have --

22 Q. Over what interval of time were there four
23 openings?

24 A. I have, I mean it had probably been a while. I

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65

1 mean, you know, through attrition. Attrition is the
2 answer to your question. I don't know the --